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House State Administration

March 14, 2007

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Montana Public Employee Retirement Administration

HB 129

Testimony before the Senate State Administration Committee
in Support of House Bill 129

Kim Flatow, Member Services Bureau Chief
for the Montana Public Employees' Retirement Board
March 14, 2007

House Bill 129 is introduced at the request of the Public Employees' Retirement Board, which supports its provisions.

HB 129 is a general revision/housekeeping bill. Throughout each biennium, the Public Employees' Retirement Board and their staff keep track of changes needed to comply with federal tax laws so the retirement plans retain their status as a tax qualified plan, issues that might need clarification, and provisions that can be implemented easier. HB129 contains changes the Board considers necessary and appropriate in the administration of the retirement systems.

You have before you a table that provides a section-by-section summary of the changes. Most of the amendments can also be grouped to understand their impact.

➤ **Compliance with federal tax law.**

- Section 1 (p.1) is in response to a change in federal tax law requiring that distributions greater than \$1,000 be automatically rolled over to an IRA. Rather than getting into the IRA business or locating IRA providers, most (2/3) state retirement systems have reduced their mandatory distribution amounts from \$5000 to \$1000. The Board is also recommending that approach.

➤ **Other amendments address service purchase and retirement system membership.**

- Section 2 (p. 2) is proposed to be amended to permit members to purchase service from one MPERA-administered retirement system to another system in the event a change in employment results in a change in a retirement system. The cost of the service is the actuarial cost and had no financial impact on either the original or the new retirement system.

- Section 19 (p.19) is similar to section 2 and applies specifically to members of the Sheriffs' Retirement System.
- Section 6 (p.8) clarified that university system employees who work less than 12 months a year are to be treated the same as school district employees who work less than 12 months a year – they receive membership service for the remaining months as that is considered “vacation time” for retirement purposes.
- Section 7 (p.8) clarified that individuals appointed to unexpired terms of elected officials have the same retirement membership rights as do the elected officials.
- Section 11 (pp.12-13) is one of the more interesting proposed amendments. As baby boomers retire, many are looking for ways to receive retirement benefits while continuing to work in their area of expertise. The proposed amendments to § 19-3-1106 clarify that public employees can not retire then return to employment through a leasing arrangement or temporary services arrangements, in order to avoid working retiree penalties. To permit otherwise would eventually have an adverse actuarial impact on our retirement systems.

➤ **Defined Contribution Plan Amendment.**

- At the request of the Legislative Auditor, the Board proposes to amend Section 14 (pp. 13-14) to give new PERS members 12 months from the **date reported** to PERS to determine whether to join the defined benefit or the defined contribution retirement plan. Currently, PERS members have 12 months from the **date of hire** to make the election. However, since employers do not provide the date of hire to the Board, the Board cannot start measuring the 12 month election window until the members is reported by the employer to the Board as a PERS member.

➤ **Volunteer Firefighters Compensation Act.**

- Section 26 through 30 contain amendments to the VFCA that conform with the structure of the volunteer firefighting companies and how they conduct business. The amendments have been reviewed and approved by their associations.

The Public Employees' Retirement Board urges your favorable consideration of HB 129, with the proposed amendment.

I will gladly answer any questions you have concerning this legislation.
Thank you.

Montana Public Employee Retirement Administration

Table of General Revisions Legislation to be Considered for 2007

Current Code Section	Proposed Change	Reason
19-2-602	Amend distribution statutes to accommodated new IRS rules regarding distributions of more than \$1,000	Comply with federal law; avoid creating an IRA; need to reduce number of inactive accounts.
19-2-715	Amend to permit purchase of service when a retirement system member becomes a member of another retirement system administered by MPERA	Permits purchase of PERS service by public safety officers in PERS who elect to transfer to a public safety retirement system
19-2-907	Clarify that if a member dies or becomes disabled prior to becoming eligible for early retirement, the alternate payee receives nothing; clarify use of the term apportion	Current language is not clear; alternate payees and members are misled.
19-2-908	Address GABA with respect to disability benefits that must commence as of day following termination	Disabled retirees should not receive retroactive GABA increases for times when they were not receiving a disability benefit.
19-2-909	Clarify that if a member dies or becomes disabled prior to becoming eligible for early retirement, the alternate payee receives nothing; clarify use of the term apportion	Current language is unclear
19-3-401(5)	Modify to allow employees of the university system to receive membership service for the summer months same as school district employees.	Consistency
19-3-412	Clarify the term "elected officials" to include those appointed to complete unexpired term –use lobbying statutes definition	Ensure all individuals in elected positions are addressed.
19-3-510	Update citation to federal statute	Current citation is incorrect.
19-3-1105(2)	Add 19-3-906	The benefit may need to be recalculated as an early retirement as opposed to a service retirement, particularly if the member 1 st retired as a disability
19-3-1106	Consider treatment of leased and temporary workers who are retirees	Practice becoming more and more common; other state laws are evolving; need to address for consistency and education purposes
19-3-1203	Replace "lump sum death payment" with "death payment"	Clarifies that beneficiaries of a deceased member may receive an annuity even if they don't receive the 6 month salary death benefit
19-3-1204		

Current Code Section	Proposed Change	Reason
19-3-2111(1)(a)(ii) and (b) and 19-3-2112(2)(a)(ii) and (iii)	Replace "[m]ay, within 12 months of the member's rehire /hire date" with "[may], within 12 months after the member is initially reported to the board"	We don't know the actual hire or rehire date. We have been using the "reported to the board" date to track the 12 months. Audit issue.
19-6-707	Add 19-6-711 to (1)	Two GABA options, both should be addressed.
19-7-101	Identify criminal investigators as criminal investigators employed by DOJ	This has been the intent and the interpretation all along. Other agencies are now hiring criminal investigators and we are being questioned regarding the correct retirement system – clarification of current interpretation
19-7-312 (19-2-715)	Add a new sub (2) to address Detention Officer purchase of PERS time	Need specific authority to clarify process
19-7-1101	Change 60 days to 480 hours	Easier to track; consistent with hour limitations in other systems
19-8-101	Properly identify employers of listed employees	There have been changes within state government that may impact this section.
19-8-302(4)	Address limitations to ability to remain in PERS	Consistency with other statutes
19-8-1110	Delete 19-8-1110	One time increase in benefits.
19-9-1202, -1207, -1208	Define the term "DROP account" rather than "DROP accrual"	Consistency and clarity.
19-17-102	Add a definition of training	If we are going to question the training provided, we need a definition. Limitations may exist in Title 7.
19-17-102, -401	Clarify that "fire companies" include fire districts and fire service areas	The three terms appear to be used interchangeably
19-17-108, -402 and -502	Use the term "designated official" to cover all possible individuals designated by the fire company's fire chief to perform specific duties related to the VFCA	Consistency of terms – Title 7 refers to several different positions, all of which we would consider to be "designated officials"